

## FAX TRANSMISSION



DATE: October 14, 2005  
CLIENT NO.: M4065.0743/P743 (U.S. Patent App. No.: 09/853,233)  
MESSAGE TO: Examiner William Coleman  
COMPANY: U.S. Patent and Trademark Office  
FAX NUMBER: (571) 273-1856  
PHONE: (571) 272-1856  
FROM: Thomas J. D'Amico, Reg. No. 28,371  
PHONE: (202) 828-2232

PAGES (Including Cover Sheet): 21 HARD COPY TO ☒ YES ☐ NO

Please file the enclosed 21 pages of documents, in U.S. Patent Application No.: 09/853,233. The undersigned certifies that the enclosed documents are being transmitted to the U.S. Patent and Trademark Office by facsimile transmission on October 14, 2005.

\_\_\_\_\_  
Thomas J. D'Amico, Reg. No. 28,371

If your receipt of this transmission is in error, please notify this firm immediately by collect call to our Facsimile Department at 202-861-9106, and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

Docket No.: M4065.0743/P743  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Steven T. Harshfield, et al.

Examiner: William Coleman

Application No.: 09/853,233

Art Unit: 2823

Filed: May 11, 2001

For: MEMORY CELL AND METHOD OF  
MAKING SAME (AS AMENDED)

CONFIRMATION OF TELEPHONIC CONFERENCE WITH EXAMINER  
COLEMAN ON OCTOBER 14, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants' undersigned representative acknowledges with appreciation the telephonic conference conducted with the Examiner on October 14, 2005. As the Examiner indicated, upon review of PAIR, the last item in the file wrapper history is the abandonment notice mailed February 18, 2005.

Applicants' undersigned representative indicated to the Examiner that a number of items have been filed since February 18, 2005. The Examiner requested that all of the items Applicants have filed be directly faxed to him. The Examiner assured Applicants' undersigned representative that these items would be scanned in and reviewed.

DSMDB.1993388.2

Application No.: 09/853,233

Docket No.: M4065.0743/P743

Specifically, on March 9, 2005, Applicants filed, by certified facsimile and mail delivery, a Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(a). Applicants also submitted a Confirmation of Telephonic Conference with Examiner William on March 7, 2005. Copies of the as-filed documents are enclosed for the Examiner's review. A copy of the date-stamped postcard indicating the same was received by the PTO is also enclosed.

On April 5, 2005, Applicants resubmitted the documents filed on March 9, 2005 in response to a telephonic conference conducted with the Examiner on March 29, 2005. Applicants faxed these documents to the Examiner's attention and mailed them as indicated by the facsimile transmission sheet and date-stamped postcard. A copy of the as-submitted documents are enclosed.

On August 29, 2005, Applicants filed a Status Inquiry with a date-stamped postcard indicating the same was received by the PTO. A copy of these documents are also enclosed.

Application No.: 09/853,233

Docket No.: M4065.0743/P743

Applicants respectfully request that all of these documents be properly entered and the holding of abandonment be withdrawn. As the Examiner indicated to the Applicants in the October 14, 2005 telephonic conference, the Notice of Abandonment was erroneously issued and should be withdrawn upon receipt of a Petition. Applicants submit that all of these documents indicated above are being filed by certified facsimile with the Examiner on October 14, 2005, and, by mail delivery to the PTO.

Dated: October 14, 2005

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

DICKSTEIN SHAPIRO MORIN &  
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicants

Inventor: Steven T. Harshfield et al.

Atty Docket No.: M4065.0743/P743

Application No.: 09/853,233-Conf. #5984

Filing Date: May 11, 2001

Title: MEMORY CELL AND METHOD OF MAKING SAME (AS AMENDED)

**Documents Filed:**

Status Inquiry for application 09/853,233 (1 page)



Via: PTO Daily Run

Sender's Initials: TJD/JCD/meb

Date: August 29, 2005

m.b.

Docket No.: M4065.0743/P743  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Steven T. Harshfield et al.

Application No.: 09/853,233

Confirmation No.: 5984

Filed: May 11, 2001

Art Unit: 2823

For: MEMORY CELL AND METHOD OF  
MAKING SAME (AS AMENDED)

Examiner: W. D. Coleman

STATUS INQUIRY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

It is respectfully requested that the attorney named below be advised of the status of the above-identified application. Please advise us of when we might expect to receive a response to the Petition to Withdraw the Holding of Abandonment that we filed with the Patent and Trademark Office on March 9, 2005.

Dated: August 29, 2005

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

DICKSTEIN SHAPIRO MORIN &  
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicant

DSMDB.1973577.1

Inventor: Steven T. Harshfield et al.

Atty Docket No.: M4065.0743/P743

Application No.: 09/853,233-Conf. #5964

Filing Date: May 11, 2001

Title: MEMORY CELL AND METHOD OF MAKING SAME (AS AMENDED)

**Documents Filed:**

Confirmation of Telephonic Conference with Examiner Coleman on March 29, 2005 (2 pages)



Via: PTO Daily Run

Sender's Initials: TJD/JCD/meb

Date: April 5, 2005

*M4-505*

Docket No.: M4065.0743/P743  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Steven T. Harshfield, et al,

Examiner: William Coleman

Application No.: 09/853,233

Art Unit: 2823

Filed: May 11, 2001

For: MEMORY CELL AND METHOD OF  
MAKING SAME (AS AMENDED)

CONFIRMATION OF TELEPHONIC CONFERENCE WITH EXAMINER  
COLEMAN ON MARCH 29, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants' undersigned representative acknowledges with appreciation the telephonic conference conducted with the Examiner on March 29, 2005. In the March 29, 2005 telephonic conference, the Examiner indicated that certain documents were indicated in PAIR as being filed by the Applicants; but, upon review of the actual file wrapper itself, the Examiner could not locate the documents. Specifically, the documents filed on March 9, 2005. Accordingly, the Examiner requested that Applicants resubmit, by facsimile, the documents filed on this date.

Consequently, Applicants resubmit copies of the March 9, 2005 filings: Petition to Withdraw the Holding of Abandonment, Copy of Fax Transmittals to PTO, Confirmation of Telephonic Conference with Examiner Coleman, and a date-stamped postcard indicating the same was filed with the PTO.

DSMDB.1908119.3



Application No.: 09/853,233

Docket No.: M4065.0743/P743

Moreover, as Applicants' undersigned representative indicated, the Examiner in a telephonic conference on November 23, 2004, indicated that he would re-open prosecution upon receipt of a statement that the Declarations filed on October 14, 2003 and December 23, 2003, respectively, were not Rule 131 or Rule 132 Declarations. A Statement to this effect was filed by certified facsimile transmission on November 23, 2004, which the Examiner acknowledged receipt of. Accordingly, as the Examiner indicated in the March 29, 2005 telephonic conference, the Notice of Abandonment, dated February 18, 2005, was issued in error and would be withdrawn.

Dated: April 5, 2005

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

DICKSTEIN SHAPIRO MORIN &amp;

OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicants

10/14/2005 16:29 FAX 202 887 0689

D S M & O

010/021

04/05/2005 14:32 FAX 202 887 0689

D S M & O

001

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 0692  
RECIPIENT ADDRESS 2244#134085#0743#15712731858  
DESTINATION ID  
ST. TIME 04/05 14:28  
TIME USE 03'48  
PAGES SENT 16  
RESULT OK

M. BAKER  
4TH

## FAX TRANSMISSION



DATE: April 5, 2005  
CLIENT NO.: M4065.0743/P743  
MESSAGE TO: Examiner William D. Coleman  
COMPANY: U.S. Patent and Trademark Office  
FAX NUMBER: (571) 273-1856  
PHONE: (571) 272-1856  
FROM: Thomas J. D'Amico  
PHONE: (202) 828-2232

PAGES (Including Cover Sheet): 16 HARD COPY TO FOLLOW: ☐ YES ☒ NO

MESSAGE: U.S. Patent Application No.: 09/853,233

As requested, please find enclosed a copy of the documents Applicants filed on March 9, 2005.

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (202) 828-2232 and send the original transmission to us by return mail at the address below.

# FAX TRANSMISSION



**DATE:** April 5, 2005  
**CLIENT NO.:** M4065.0743/P743  
**MESSAGE TO:** Examiner William D. Coleman  
**COMPANY:** U.S. Patent and Trademark Office  
**FAX NUMBER:** (571) 273-1856  
**PHONE:** (571) 272-1856  
**FROM:** Thomas J. D'Amico  
**PHONE:** (202) 828-2232

**PAGES (Including Cover Sheet):** 16

**HARD COPY TO FOLLOW:** ☐ YES ☒ NO

**MESSAGE:** U.S. Patent Application No.: 09/853,233

As requested, please find enclosed a copy of the documents Applicants filed on March 9, 2005.

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (202) 828-2232 and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

**DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP**  
2101 L Street NW, Washington, DC 20037-1526  
Telephone: (202) 785-9700 Facsimile: (202) 887-0689

DSMDB.1908121.3

Docket No.: M4065,0743/P743  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Steven T. Harshfield, et al.

Examiner: William Coleman

Application No.: 09/853,233

Art Unit: 2823

Filed: May 11, 2001

For: MEMORY CELL AND METHOD OF  
MAKING SAME (AS AMENDED)

CONFIRMATION OF TELEPHONIC CONFERENCE WITH EXAMINER  
COLEMAN ON MARCH 29, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants' undersigned representative acknowledges with appreciation the telephonic conference conducted with the Examiner on March 29, 2005. In the March 29, 2005 telephonic conference, the Examiner indicated that certain documents were indicated in PAIR as being filed by the Applicants; but, upon review of the actual file wrapper itself, the Examiner could not locate the documents. Specifically, the documents filed on March 9, 2005. Accordingly, the Examiner requested that Applicants resubmit, by facsimile, the documents filed on this date.

Consequently, Applicants resubmit copies of the March 9, 2005 filings: Petition to Withdraw the Holding of Abandonment, Copy of Fax Transmittals to PTO, Confirmation of Telephonic Conference with Examiner Coleman, and a date-stamped postcard indicating the same was filed with the PTO.

DSMDB.1908119.3

Application No.: 09/853,233

Docket No.: M4065.0743/P743

Moreover, as Applicants' undersigned representative indicated, the Examiner in a telephonic conference on November 23, 2004, indicated that he would re-open prosecution upon receipt of a statement that the Declarations filed on October 14, 2003 and December 23, 2003, respectively, were not Rule 131 or Rule 132 Declarations. A Statement to this effect was filed by certified facsimile transmission on November 23, 2004, which the Examiner acknowledged receipt of. Accordingly, as the Examiner indicated in the March 29, 2005 telephonic conference, the Notice of Abandonment, dated February 18, 2005, was issued in error and would be withdrawn.

Dated: April 5, 2005

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

DICKSTEIN SHAPIRO MORIN &  
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicants

**Inventor:** Steven T. Harshfield et al.

**Atty Docket No.:** M4065.0743/P743

**Application No.:** 09/853,233-Conf. #5984

**Filing Date:** May 11, 2001

**Title:** MEMORY CELL AND METHOD OF MAKING SAME (AS AMENDED)

**Documents Filed:**

Petition to Withdraw the Holding of Abandonment (3 pages)

Copy of Fax Transmittals to PTO (5 pages)

Confirmation of Telephonic Conference with Examiner (2 pages)



**Via:** PTO Daily Run

**Sender's Initials:** TJD/JCD/meb

**Date:** March 9, 2005

Docket No.: M4065.0743/P743  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Steven T. Harshfield, et al.

Examiner: William D. Coleman

Application No.: 09/853,233

Art Unit: 2823

Filed: May 11, 2001

For: MEMORY CELL AND METHOD OF  
MAKING SAME

**CONFIRMATION OF TELEPHONIC CONFERENCE WITH EXAMINER WILLIAM  
COLEMAN ON MARCH 7, 2005**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants' undersigned representative acknowledges with appreciation the telephonic conference conducted with Examiner William D. Coleman on March 7, 2005. In the March 7, 2005 telephonic conference, Examiner Coleman acknowledged that the Notice of Abandonment, dated February 18, 2005, should not have been issued. Examiner Coleman further acknowledged timely receipt of the certified facsimile transmission of the Confirmation of Telephonic Conferences With Examiner Coleman on November 23, 2004 With Accompanying Comments (two pages) and the fax cover on November 23, 2004.

DSMDB.1895509.2

Application No.: 09/853,233

Docket No.: M4065.0743/P743

The Examiner stated that the above-referenced application should have been withdrawn from allowance since he was going to re-open prosecution to consider the Declarations filed on October 14 and December 23, 2003, respectively. Accordingly, a Petition to Withdraw the Holding of Abandonment Under 37 C.F.R. § 1.181(a) is being filed concurrently herewith. Applicants respectfully request that the Petition be granted and the holding of abandonment be withdrawn for the above-referenced application. Applicants also request that the Examiner re-open prosecution to fully consider the Declarations filed on October 14 and December 23, 2003, respectively.

Dated: March 9, 2005

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

DICKSTEIN SHAPIRO MORIN &  
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicants



\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

## TRANSMISSION OK

TX/RX NO	3754
CONNECTION TEL	4065#0743#7038720308
SUBADDRESS	
CONNECTION ID	
ST. TIME	03/09 16:08
USAGE T	02'51
PGS. SENT	11
RESULT	OK

## FAX TRANSMISSION



DATE: March 9, 2005  
CLIENT NO.: M4065.0743/P743 (U.S. Patent App. No.: 09/853,233)  
MESSAGE TO: OIPE Customer Service, Petition to Withdraw the Holding of Abandonment  
COMPANY: U.S. Patent and Trademark Office  
FAX NUMBER: (703) 872-9306  
PHONE:  
FROM: Thomas J. D'Amico, Reg. No. 28,371  
PHONE: (202) 828-2232

PAGES (Including Cover Sheet):

11

HARD COPY TO



YES



NO

Please file the attached Petition To Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(A), in U.S. Patent Application No.: 09/853,233. The undersigned certifies that the attached Petition is being transmitted to the U.S. Patent and Trademark Office by facsimile transmission on March 9, 2005.

  
Thomas J. D'Amico, Reg. No. 28,371

# FAX TRANSMISSION



DATE: March 9, 2005  
CLIENT NO.: M4065.0743/P743 (U.S. Patent App. No.: 09/853,233)  
MESSAGE TO: OIPE Customer Service, Petition to Withdraw the Holding of Abandonment  
COMPANY: U.S. Patent and Trademark Office  
FAX NUMBER: (703) 872-9306  
PHONE:  
FROM: Thomas J. D'Amico, Reg. No. 28,371  
PHONE: (202) 828-2232

PAGES (Including Cover Sheet): 11 HARD COPY TO ☐ YES ☒ NO

Please file the attached Petition To Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(A), in U.S. Patent Application No.: 09/853,233. The undersigned certifies that the attached Petition is being transmitted to the U.S. Patent and Trademark Office by facsimile transmission on March 9, 2005.

  
Thomas J. D'Amico, Reg. No. 28,371

If your receipt of this transmission is in error, please notify this firm immediately by collect call to our Facsimile Department at 202-861-9106, and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

Docket No.: M4065.0743/P743  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:  
Steven T. Harshfield, et al.

Examiner: William D. Coleman

Application No.: 09/853,233

Group Art Unit: 2823

Filed: May 11, 2001

For: MEMORY CELL AND METHOD OF  
MAKING SAME

**PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**  
**UNDER 37 C.F.R. § 1.181(A)**

Commissioner For Patents  
MS: Issue Fee  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is a Petition under 37 C.F.R. § 1.181(a) and M.P.E.P. § 711.03(c), page 700-154. Petitioners request withdrawal of the holding of abandonment. The above-referenced patent application is not abandoned since a timely reply was filed on November 23, 2004 in response to the Notice of Allowance dated August 25, 2004. A copy of our submission papers, which were faxed to and received by the PTO on November 23, 2004, is enclosed.

Telephonic conferences were conducted with the Examiner on November 23, 2004 concerning an erroneous Examiner's Statement for Reasons of Allowance. The reasons for allowance stated that the claims were allowed "in relation to the declaration

DSMDB.1895619.2

Application No.: 09/953,233

Docket No.: M4065.0743/P743

filed on December 23, 2003." The Examiner indicated in the telephonic conferences that the electronic filing system designated the Declarations filed on October 14, 2003 and December 23, 2003, respectively, as Rule 131 or Rule 132 Declarations. This information was incorrect. The Declarations disclosed potential prior art for the Examiner's review.

In the November 23, 2004 telephonic conferences, the Examiner requested that Applicants file a statement noting the error and indicating that the Declarations filed on October 14, 2003 and December 23, 2003, respectively, were not Rule 131 or Rule 132 Declarations. Upon receipt of the statement noting the error, the Examiner indicated that, he would immediately withdraw the application from issue and re-open prosecution to more fully consider the Declarations. A Confirmation of Telephonic Conferences with Examiner Coleman on November 23, 2004 With Accompanying Comments was filed, by certified facsimile transmission on November 23, 2004, memorializing these telephonic conversations. Enclosed is a copy of the facsimile transmission, including the cover page which are time and date-stamped 11/23 16:20, indicating that these papers were timely filed and received by the U.S. Patent and Trademark Office. Upon the filing and receipt of this paper, prosecution was to be re-opened immediately, per the Examiner.

Accordingly, no fee is believed to be due for this Petition since a Response was timely filed on November 23, 2004. If any fee is due, however, please charge it to our Deposit Account No. 04-1073 (Order No. M4065.0743/P743).

Application No.: 09/953,233

Docket No.: M4065.0743/P743

If despite the foregoing, the PTO considers the present application to be abandoned, Applicants respectfully request that this paper be considered as a Petition to Revive an Unintentionally Abandoned Application. The entire delay was unintentional and caused by Patent Office delay in promptly reopening prosecution. The enclosed documents are fully responsive to the February 18, 2005, Notice of Abandonment. Please charge our Deposit Account No. 04-1073 (Order No. M4065.0743/P743), the petition fee set forth in 37 C.F.R. § 1.17(l).

Dated: March 9, 2005

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No. 28,371

DICKSTEIN SHAPIRO MORIN &amp;

OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

202-828-2232

Attorney for Applicants

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ BLACK BORDERS
- ☐ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☐ FADED TEXT OR DRAWING
- ☒ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☒ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☐ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**